

FIRST DIVISION
September 3, 2013

No. 1-12-3542

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court of
LINDA BEIRIGER,)	Cook County
)	
Petitioner-Appellant,)	
)	
and)	No. 09 D5 30331
)	
FRANK BEIRIGER,)	Honorable
)	Veronica Mathein,
Respondent-Appellee.)	Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

- ¶ 1 **Held:** The *pro se* appellant failed to provide a transcript of the trial proceedings or a valid bystander's report, prohibiting review of her substantive claims.
- ¶ 2 The petitioner-appellant, Linda Beiriger, who is proceeding *pro se*, appeals from a judgment for dissolution of marriage entered by the trial court. On appeal, Linda contends the trial court abused its discretion by improperly distributing marital assets. She also asserts the judgment does

not accurately reflect what the trial court ordered because the attorney for respondent-appellee, Frank Beiriger, purposely misdrafted the judgment to help Frank hide marital assets from her. Regarding the distribution of marital assets, Linda claims the trial court improperly: (1) valued Frank's stock account and individual retirement account on the basis of false figures; (2) awarded her 50% of the value of the parties' five vehicles when she was entitled to 100%; (3) characterized her ING account as marital property when it was non-marital property; (4) caused her to be liable for taxes as a result of being awarded the parties' Chicago home; (5) gave her only 25% of Frank's worker's compensation settlement; and (6) ordered her to receive only \$200 in permanent weekly maintenance. She also claims that (1) the case should be transferred back to a suburban courthouse, and (2) Frank's attorney should have been held in contempt. For the following reasons, we affirm the trial court.

¶ 3

BACKGROUND

¶ 4 Linda and Frank were married in February 1982 and have four adult children. During their marriage, Frank worked as a carpenter and earned extra money by purchasing, renovating, and selling homes. Linda initially worked at United Parcel Service and later she stocked shelves at a sunglasses company. In 2008, Frank was injured and could no longer work as a carpenter. As a result, he received a worker's compensation settlement for his injury and then sought employment as a truck driver.

¶ 5 In April 2009, after the breakdown of their marriage, Frank moved into the parties' Chicago home. Linda and the children continued to live at the parties' Burbank, Illinois home. In May 2009, Linda filed a petition for dissolution of marriage in the circuit court of Cook County courthouse

located in Bridgeview, Illinois. In June 2009, Frank filed a district transfer form to move the case to the Daley Center courthouse in Chicago. That same month, Frank answered Linda's petition for dissolution of marriage and filed a counter-petition for dissolution of marriage. In September 2009, Linda responded to Frank's counter-petition for dissolution of marriage. In April and June 2012, the court conducted a trial and orally ruled on the distribution of the couple's marital assets.

¶ 6 At trial, Linda appeared *pro se* and did not employ a court reporter to record the proceedings. The trial judge requested that Frank's attorney prepare the judgment for dissolution of marriage and provide a copy of the proposed judgment to Linda and the court. After receiving the proposed judgment, Linda made a number of modifications, but the trial judge entered the judgment as prepared by Frank's attorney because it corresponded exactly to what she had ordered at the conclusion of the trial. The trial judge stated: "Not only did I read it, but I compared it exactly to what I ordered, every word" and "I would not have signed it otherwise."

¶ 7 In July 2012, the trial court entered the judgment for dissolution of marriage. The judgment provided that Linda would receive \$200 a week in permanent maintenance and she would be awarded the Chicago home valued at \$107,000. Linda would also receive 50% of the marital accounts, which included savings, mutual fund, stock, pension, and retirement accounts. Furthermore, Linda was entitled to 25% of Frank's worker's compensation settlement and 50% of the value of the parties' five vehicles.

¶ 8 In August 2012, Linda filed a motion to reconsider certain provisions of the judgment for dissolution of marriage. A court reporter was present at the hearing. Linda explained that, while she was satisfied with the trial court's findings, she believed Frank's attorney purposely drafted the

judgment to help Frank hide marital assets from her. As a result, she stated she intended to file a motion for indirect criminal contempt against Frank's attorney. The trial judge told Linda she would not consider a contempt pleading because Frank's attorney had acted professionally throughout the proceedings and she entered the judgment because the judgment as prepared by Frank's attorney appropriately reflected exactly what she had ordered at trial. The trial judge then denied the motion for reconsideration.

¶ 9 In December 2012, Linda filed a notice of appeal. At the time she filed her appeal, Linda also moved to certify a document she characterized as a bystander's report. On January 31, 2013, the trial court denied Linda's motion because the bystander's report she presented did "not reflect the record at trial." Nevertheless, Linda attached her bystander's report to her *pro se* brief filed in this court. Frank subsequently moved to dismiss this appeal and also to strike the bystander's report. This court denied Frank's motion to dismiss, but granted the motion to strike the bystander's report.

¶ 10 ANALYSIS

¶ 11 We must first address two procedural issues regarding the *pro se* brief Linda filed with this court and her failure to comply with Illinois Supreme Court Rules 321 (Ill. S. Ct. R. 321 (eff. Feb. 1, 1994)), 323(c) (Ill. S. Ct. R. 323(c)) (eff. Dec. 13, 2005)), and 342(a) (Ill. S. Ct. R. 342(a)) (eff. Jan. 1, 2005)). "While *pro se* litigants are held to a lesser standard in complying with the rules for appealing to the appellate court," an appellant is required to meet a minimum threshold in providing the court with an adequate record to review the issues raised on appeal. *Rock Island County v. Boalbey*, 242 Ill.App.3d 461, 462 (1993). First, Linda failed to prepare her brief as required by Supreme Court Rule 342(a). Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005). Supreme Court Rule 342(a)

requires an appellant to include in her brief an appendix with, among other things, a copy of the judgment appealed from, any findings of fact or opinions issued by the trial court, any relevant pleadings, and a table of contents of the record on appeal. *Id.* Linda's brief does not meet these requirements and, in particular, she has not included a copy of the judgment from which she is appealing.

¶ 12 Supreme court rules are not mere suggestions; they are rules that must be followed. *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 57. "Where an appellant's brief fails to comply with supreme court rules, this court has the inherent authority to dismiss the appeal." *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). However, we recognize that striking a brief for failure to comply with supreme court rules is a harsh sanction. *In re Detention of Powell*, 217 Ill. 2d 123, 132 (2005); *People v. Thomas*, 364 Ill. App. 3d 91, 97 (2006). Because Linda has made a good faith attempt to comply with the rules, we will proceed to the merits of this appeal.

¶ 13 Linda requests that this court review a number of substantive issues. However, Linda has failed to provide this court with a report of the proceedings from the trial court as required by Supreme Court Rule 321. Ill. S. Ct. R. 321 (eff. Feb. 1, 1994). Nor has she provided an acceptable substitute as provided for in Rule 323(c). Ill. S. Ct. R. 323(c) (eff. Dec. 13, 2005). The appellant has the burden of providing a sufficient record of the trial proceedings to support her claims of error. *Foutch v. O'Bryant*, 99 Ill.2d 389, 391-92 (1984). In the absence of a record, we must presume the trial court acted in conformity with the law and had a sufficient factual basis for its findings. *Id.* Furthermore, any doubts arising from an incomplete record will be resolved against the appellant. *Id.*

¶ 14 Linda attached what she characterizes as a bystander’s report to her brief. But that report does not satisfy the requirements of Supreme Court Rule 323(c) because she failed to serve Frank with the proposed report within 28 days after filing her notice of appeal. Ill. S. Ct. R. 323(c) (eff. Dec. 13, 2005). She was required to serve Frank with her proposed report so that he would have an opportunity to prepare any alternations or amendments to that report. *Id.* Most importantly, Linda was then required to have the report certified by the trial court as being an accurate representation of the court’s proceedings and filed as part of the record below. *Id.* Linda cannot rely on this report, however, because the trial court apparently declined to certify it as correct, and this court struck it. As a result, Linda has failed to provide this court with sufficient information to review and decide the issues presented. Accordingly, we cannot review the substantive issues of Linda’s appeal because she has failed to provide a report of the proceedings below as required by Rule 323(c). Ill. S. Ct. R. 323(c) (eff. Dec. 13, 2005).

¶ 15 While we cannot decide the main substantive issues, we now turn to a number of other issues Linda raises.

¶ 16 Circuit Court General Order Number 15.3, 3.8

¶ 17 Linda argues that this case should be transferred from the Daley Center courthouse back to Bridgeview courthouse, where she originally filed the case. Circuit Court of Cook County General Order Number 15.3, 3.8 provides that “[r]emoval of a pre-judgment case filed within a suburban municipal district shall occur when the Respondent files his/her first appearance together with a District Transfer Form***.” Cook Co. Cir. Ct. G.O. 15.3, 3.8 (Oct. 1, 1998). This rule allows parties to litigate a divorce case in suburban courthouses if both parties wish to do so. However, if

one party prefers to litigate the case in the Daley Center, that party has a veto power of sorts, and may force the case to be heard there. Our review of the record shows that Frank's request to transfer the case to Chicago was proper under General Order Number 15.3, 3.8 because when Frank initially filed his appearance on June 8, 2009, he also filed a district transfer form with the trial court. Thus, the removal of the case to Chicago occurred prior to any judgment being entered in this case. Furthermore, there is no indication in the record that Linda objected to the case being transferred prior to this appeal. Therefore, we conclude Linda's post-judgment objection to the transfer is without merit.

¶ 18 Linda's Motion for Criminal Contempt

¶ 19 Linda claims Frank's attorney should be subject to a charge of indirect criminal contempt because the proposed judgment for dissolution of marriage she drafted was inconsistent with the trial court's findings and ruling. Linda asserts that Frank's attorney purposely worded the judgment so that Frank could hide marital assets from her. But the record shows that Linda's allegation cannot be substantiated because she has failed to produce evidence supporting such a charge. Importantly, the trial judge expressly told Linda that the judgment, as drafted by Frank's attorney, reflected her findings and ruling. In fact, the trial judge explained she compared every word of the judgment to her own notes and signed the judgment because it constituted exactly what she had ordered at trial. Without a transcript of the trial, we have no basis to overturn the trial judge on this issue. We find Linda's allegation is without merit.

¶ 20 Issues Raised for the First Time on Appeal

¶ 21 Linda next raises a number of issues for the first time in her appeal that she did not raise in

the trial court. She first asserts that it was improper for the trial court to include her ING account as part of the marital assets because that account is “well-rooted” from her childhood accounts. Linda next raises the issue of the tax consequences associated with the Chicago home by implying she should not be liable for paying those taxes. Additionally, she claims that Frank’s attorney improperly evaded pre-trial discovery requests. However, “issues not raised in the trial court are deemed forfeited and may not be raised for the first time on appeal.” *In re Marriage of Romano*, 2012 IL App (2d) 091339 ¶ 85. Because Linda did not raise any of these issues in the trial court, she has forfeited them and is prohibited from raising them in her appeal. Accordingly, we do not consider these issues as they are not properly before this court.

¶ 22

CONCLUSION

¶ 23 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 24 Affirmed.